

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TESSA KNOX, et al.,

Plaintiffs,

-v.-

JOHN VARVATOS ENTERPRISES, INC.,

Defendant.
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:
: ORDER

17 Civ. 772 (GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge

During the trial, the defendant represented that it had made a motion to seal certain exhibits and that the motion had been granted. Tr. 669. In fact, all that the Court did was to grant a motion to redact or seal exhibits contained in a letter application that sought relief in limine. Docket # 319. That letter application was evaluated under an entirely different standard from the application apparently contemplated by defendant: namely, to file the actual exhibits under seal (once they are filed) and to redact portions of the transcript that mention them. Tr. 669-70.

The Court will temporarily seal the transcript so that a proper application may be made on the condition that the defendant file by March 27, 2020, a formal motion to redact the portions of the transcript it seeks to redact. The Court notes that the standard for sealing of matters occurring in a public trial is strict, see, e.g., Mirlis v. Greer, 2020 WL 1018445, at *4-5 (2d Cir. Mar. 3, 2020); Lugosch v. Pyramid Co., 435 F.3d 110, 119-120 (2d Cir. 2006), and defendant should submit an affidavit or declaration from a person with knowledge indicating the specific harm or potential harm that would result from any further public disclosure.¹ The motion shall append for public viewing the proposed redacted version of the transcript.

Accordingly, the Court orders as follows:

The Clerk is requested to make the March 2, 2020 transcript (Docket #348) viewable only by the Court and the attorneys on the case until further order of the Court.

On or before March 27, 2020, defendant shall file any motion to seal the transcript's redactions. The briefing schedule on the motion shall be in accordance with paragraph 2.B of the Court's Individual Practices. If any material in the motion itself needs to be filed under seal, defendant shall comply with paragraph 2.E of the Court's Individual Practices.

¹ The Court uses the word "further" because the testimony at issue was given in a courtroom open to the public.

SO ORDERED.

Dated: March 6, 2020
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge